

July 2022

## A Primer on the Income Tax Consequences of the NCAA's Name, Image and Likeness (NIL) Earnings for College Athletes

Marena M. Messina

University of Alabama at Birmingham, [mmolay@uab.edu](mailto:mmolay@uab.edu)

Frank M. Messina

University of Alabama at Birmingham, [fmessina@uab.edu](mailto:fmessina@uab.edu)

Follow this and additional works at: <https://scholarworks.bgsu.edu/jade>



Part of the [Accounting Commons](#), [Finance and Financial Management Commons](#), [Higher Education Commons](#), [Sports Management Commons](#), [Sports Studies Commons](#), and the [Taxation Commons](#)

---

### Recommended Citation

Messina, Marena M. and Messina, Frank M. (2022) "A Primer on the Income Tax Consequences of the NCAA's Name, Image and Likeness (NIL) Earnings for College Athletes," *Journal of Athlete Development and Experience*: Vol. 4: Iss. 2, Article 5.

Available at: <https://scholarworks.bgsu.edu/jade/vol4/iss2/5>

This Research Article is brought to you for free and open access by the Journals at ScholarWorks@BGSU. It has been accepted for inclusion in Journal of Athlete Development and Experience by an authorized editor of ScholarWorks@BGSU.

## A Primer on the Income Tax Consequences of the NCAA’s Name, Image, and Likeness (NIL) Earnings for College Athletes

**Marena M. Messina**  
University of Alabama at Birmingham

**Frank M. Messina**  
University of Alabama at Birmingham

### ABSTRACT

*NCAA domestic college athletes can now financially benefit from their name, image, and likeness (NIL). The purpose of this article is to educate athletes on the new NIL rules in financial literacy. With new NIL income flowing to athletes, federal income tax consequences of these transactions must be addressed. This article results in a detailed introduction to the applicable federal tax rules regarding NIL income for athletes to stay in compliance with those laws. From understanding NIL income, to how the tax formula works, what tax forms apply, and what taxes may be due, this article provides a comprehensive toolkit for athletes who will be financially benefitting from NIL. Athletes must learn to understand the tax rules associated with the income from the NIL. In general, most athletes earning equal to or less than \$12,550 in NIL income should have no federal income tax due. However, athletes likely must fill out tax returns, and as self-employed taxpayers, may owe self-employment taxes. Most athletes have spent many hours weekly and yearly mastering the sport and more than likely not as much time holding jobs. As such, there is a lack of basic understanding of the United States’ income tax system.*

*Keywords:* accounting, financial literacy, form 1040, schedule C, self-employment, taxation

After many years of discussions and debates, NCAA college athletes can now financially benefit or “profit” from their name, image, and likeness (NIL). Analysts predict that individual athletes could make anywhere from \$500 - \$2 million a year off of their NIL (Towey, 2021). All three NCAA divisions recently adopted a uniform interim policy for over 400,000 incoming and current college athletes in all sports. Quoted from an article by Hosick (2021), NCAA President Mark Emmert noted:

This is an important day for college athletes since they all are now able to take advantage of name, image and likeness opportunities. With the variety of state laws adopted across the country, we will continue to work with Congress to develop a solution that will provide clarity on a national level. The current environment — both legal and legislative — prevents us from providing a more permanent solution and the level of detail college athletes deserve. (para. 2)

The NCAA policy provides guidance to athletes, recruits, their families, and member schools as follows:

- Individuals can engage in NIL activities that are consistent with the law of the state where the school is located. Colleges and universities may be a resource for state law questions,
- College athletes who attend a school in a state without an NIL law can engage in this type of activity without violating NCAA rules related to name, image, and likeness,
- Individuals can use a professional services provider for NIL activities,
- College athletes should report NIL activities consistent with state law or school and conference requirements to their school. (Hosick, 2021, para. 3)

As far back as 1929, the Carnegie Foundation for the Advancement of Teaching sponsored the study that examined the development of the amateur status for college athletes and noted the

inherent difficulties in subsidizing students and the handling of those conflicts with regards to the university, coaches, and players (Savage et al., 1929). The irony of the NCAA rules on amateurism alleging that athletes should give up their right to license their image and likeness has long existed (Maghamez, 2015). As the NCAA and its member institutions started collecting billions of dollars in revenue from athletics, more and more lawsuits began to be filed by former college athletes. Most recently, Ed O'Bannon, a former UCLA basketball player, filed a lawsuit for the use of his likeness in a video game by EA Sports. In 2014, he won his district court case. As such, the NCAA opted to discontinue its affiliation with the college-themed EA video games. Fast forward to 2019 when the State of California passed "The Fair Pay to Play Act." Other states have continued to follow suit. In June of 2021, the United States Supreme Court, in a 9-0 decision regarding *National Collegiate Athletic Association v. Alston* (2020), established that the NCAA could not collectively establish a limit to the education-related benefits institutions can offer to college athletes. The NCAA quickly passed rules allowing NIL earnings for college athletes starting July 1, 2021.

To properly serve college athletes, NCAA member institutions need to provide education on the new NIL rules. For example, college athletes need to know if they are obligated to follow Federal Trade Commission (FTC) rules if participating in any social media-related NIL activities. The FTC's mission focuses on consumer protection which has required endorsement guidelines to assist endorsers (which includes college athletes) to refrain from deceptive advertising. Carter (2021) survey from a July 2021 study of 1,050 current-student athletes in NCAA DI, II, III, and NAIA reported 72% of college athletes do not know what the FTC requires relative to NIL in the context of social media influencers, and 84% of college athletes say they have never heard of the FTC's Endorsement Guides. The new NIL rules coupled with limited exposure to financial education prior to enrolling in college present a paramount scenario not only as it relates to financial literacy but also a general understanding of how the United States (U.S.) tax code works (Britt et al., 2015; Rubin et al., 2021).

With this new NIL income now flowing to domestic college athletes, federal income tax consequences of these transactions must be addressed. Athletes need to understand the tax rules associated with the income from the NIL process. Most athletes have spent many hours weekly and yearly mastering the sport and more than likely not as much time holding jobs. As such, there is a lack of basic understanding for domestic college athletes receiving NIL monies regarding the U.S. income tax system. This article provides a detailed primer to the applicable federal tax rules of NIL income so domestic athletes<sup>1</sup> can stay in compliance with those laws. As various state tax laws differ, college athletes need to refer to those tax rules for the state(s) in which the university/college is located and possibly in the state(s) in which the college athletes reside because there may be state tax consequences as well regarding NIL.

### How NIL Income is Being Earned

Domestic college athletes are making money from all sorts of ventures (allowed by their state's laws, the NCAA, and their institution). Many college athletes are becoming instant stars on Tik-Tok and Instagram. Many are profiting from signing autographs and jerseys from their respective university/college, promoting company events and products, sponsorships, endorsements, and performing marketing services. The list of potential income activities is staggering, and companies are quickly developing unique and creative ways for college athletes to market products and services. The income potential is enormous for some and small to nonexistent for others. Again, this dispersion of wealth depends on the market and marketability of each particular college athlete in addition to their sport affiliation. For example, the University of Alabama's football quarterback reached almost seven figures in NIL deals before even starting in a college game (Karpen, 2021). A quick Google search of "NIL deals" shows the many ways these opportunities are happening. Some of the amounts are substantial, which will potentially trigger

---

<sup>1</sup> It should be noted that international students who may also be earning NIL income (if permitted by VISAs) will have to deal with a whole different set of potential tax issues. Immigration and Customs Enforcement (ICE) has the authority to change VISA rules for college athletes (Heffner, 2021).

income tax issues. For updated information on particular states who have passed NIL laws, the *Business of College Sports* (2021) has published a tracker with routine updates. It should be noted that the NCAA rules also allow NIL deals for college athletes in those states that have not yet passed NIL Legislation.

### Who Must File a Tax Return and What Tax Forms Apply to College Athlete?

Once a college athlete begins to perform services based on NIL, a tax return may need to be filed for the tax year in which the income is earned. The Internal Revenue Service (IRS, 2021d) has published a user-friendly survey site that taxpayers can use to determine if a tax return is due. The main tax form college athletes need to fill out for reporting NIL income is Form 1040. All other forms (e.g., Schedule C, Schedule SE) discussed in this article will “flow” into tax calculations on Form 1040 where the final determination of potential tax due is displayed and then has to be paid.

### A Basic Look at the Income Tax Formula for NIL Income for Individuals

College athletes need to follow the individual income tax formula in Table 1 to prepare the applicable Form 1040 tax return correctly. The following sections discuss the pertinent forms in detail.

**Table 1**  
*Basic Individual Income Taxation Formula*

Gross Income
- Deductions for Adjusted Gross Income
= <b>Adjusted Gross Income (AGI)</b>
- Standard Deduction OR Itemized Deductions
= <b>Taxable Income</b>
x Tax Rate
= <b>Gross Tax Liability</b>
- Tax Credits and Repayments
= <b>Tax Due OR Tax Refund</b>

### What is “Income” According to Federal Tax Law?

According to federal tax laws, “income” is money or other non-monetary items that increases a person’s wealth. This includes all college athletes’ who earn in the U.S. or are U.S. citizens. The U.S. Government taxes income from whatever source it is derived unless specific tax rules passed by Congress exclude it from being taxed. These nontaxable incomes are known as exclusions. The technical term for taxable income is referred to as “gross income.” For college athletes dealing with NIL opportunities, the receipt of this taxable gross income (as it is not a congressional exclusion) should be reported and can exist in the form of cash as well as non-cash material items (e.g., automobile leases, merchandise). Generally, “gross income” will be taxed on college athletes’ NIL income along with any other gross income the college athletes may have for the calendar year.

### How Will College Athletes Account for and Pay Taxes That May Be Due on NIL Gross Income?

For tax purposes, college athletes’ earning NIL gross income are viewed as, cash-basis, sole proprietor, individual taxpayers and will more than likely be considered “self-employed” under the status of an independent contractor. Before work begins with a particular company on NIL deals, athletes will be required to fill out Form W-9. This form is required to provide a tax ID number (social security number, employer ID [EIN], or other information) to be reported to the IRS.

Simply put – when gross income is received from the NIL process -- it will be taxed in the year it is received, and any applicable business expenses paid in that year will reduce that NIL income.

So how are NIL gross income and related business expenses properly reported on an individual tax return? First and foremost, college athletes start the process with IRS Form 1040 (IRS, 2021a). In most cases, the self-employed athletes complete the standard Form 1040 Schedule C to report the related NIL income and business expenses for the year (IRS, 2021b). In rare and unlikely situations, athletes could be viewed as employees of whomever the work is performed and would receive W-2s at the end of the year to report on Form 1040.

If a company represents or requests NIL services that result in earning \$600 or more, the athletes should receive a Form 1099-NEC by January 31 of the following year. A Form 1099 is a government form issued by businesses to document payments for services. The information on Form 1099 is reported to the IRS for purposes of audit matching with the independent contractor's tax return to verify the correct amounts are reported. All 1099s received and any other NIL receipts for the tax year must be included in gross income on college athletes' Schedule Cs.

Any related-business expenses college athletes incur to help produce NIL income will be allowed as a business deduction on Schedule C to offset NIL income. According to tax law, these expenses must meet the criteria of ordinary, necessary, and reasonable. For many athletes, this could include mileage to and from the NIL income locations, office expenses, cell phone expenses, legal and accounting, and other item purchases related to the NIL income. Detailed documentation of all NIL income and expenses must be kept and retained by athletes as tax records for a minimum of three years in case of potential later audits by the IRS.

Also, most importantly and probably applicable, self-employment taxes need to be paid for Social Security, and Medicare taxes on any NIL income received net of expenses of \$400 or more. Thus, athletes could possibly not owe any federal income taxes on NIL income based on other factors, but may still have to pay these other taxes, which are calculated at a net rate of 6.2% for Social Security taxes up a yearly set limit plus, an additional 1.45% for Medicare taxes<sup>2</sup>. The tax form for calculating these taxes is Schedule SE (IRS, 2021c). It should be noted that athletes who receive NIL income may also be subject to state income tax requirements depending on which state they reside.

### **Handling Cash Receipts – Venmo, Others, and Cash Payments**

All cash receipts, including monies collected via peer-to-peer payment apps (e.g., Venmo, PayPal, Cash App) from athletes NIL earnings must be included in gross income on the college athletes' Schedule C regardless of the information technology platform used. In some instances, athletes may receive a 1099-K, a variant of 1099 previously discussed, from the peer-to-peer payment company if the money received or the number of transactions surpass set limits as issued by the IRS. Regardless, whether issued a 1099-K or not, athletes are fully responsible for reporting this income received on Schedule C. Peer-to-peer platforms will not only require bank account information, but most require social security numbers. This supplied information is how the government keeps track of receipts in electronic form.

### **What is the Tax “Standard Deduction” Given to Taxpayers to Reduce Gross Income, Including College Athletes’ NIL Gross Income?**

The standard tax deduction is a predetermined “free” amount in the federal tax system that allows a deduction from adjusted gross income (AGI) dependent on the athlete's filing status. AGI is defined as gross income minus any federally allowed adjustments (see table 1). In other words, the standard deduction is a flat dollar amount that reduces AGI and thus reduces tax liability. Because of how the U.S. tax law is structured, most athletes will use the standard deduction amount and not worry about the other rules regarding itemizing allowed tax deductions (e.g., medical, taxes, home mortgage interest, charitable contributions).

---

<sup>2</sup> In 2021, there is an additional 0.9 percent tax applied to income earned above specified thresholds.

Before the exact standard deduction amount can be determined for the tax return, athletes need to know which of the five following tax filing statuses to use because only one standard deduction is allowed per individual tax return. Tax filing status is determined by college athletes' legal marital status as of the last day of the year. Unlike most federal tax laws, marital status for the federal income tax return is determined at the state level. Legally married athletes may choose between the married filing jointly or married filing separately status, while unmarried athletes qualify under the single, surviving spouse, or head of household status. Single taxpayers looking to file under surviving spouse or head of household must consider other factors, such as the recent death of a spouse and/or maintaining the home for dependent children, respectively.

The vast majority of college athletes will more than likely default into the "Single" filing status category, which entitles a standard deduction amount of \$12,550 in 2021. The 2021 standard deduction amounts for Married Filing Jointly (MFJ) and Surviving Spouse are \$25,100; for Married Filing Separately (MFS), \$12,550; and for Head of Household (HH), \$18,800. For example, if a Single filing college athlete has AGI (see table 1) of \$15,000 and a standard deduction of \$12,550, taxable income would be calculated at \$2,450. Federal tax tables are used based on filing status and amount of finalized taxable income to determine the exact amount of income taxes tentatively due.

Given the standard deduction tax rules, most college athletes' earning equal to or less than \$12,550 in NIL income will have no federal income tax consequences. For example, if a student-athlete is engaged in a licensing agreement, the annual NIL value per student-athlete could range from \$1,000 - \$10,000 (Maestas & Belzer, 2020). This, however, is where federal tax laws become more complex. If a college athlete's parents or someone else is supporting and "claiming" the college athlete as a dependent, then even when using the single filing status, the full standard deduction amount is not allowed. In this instance, the tax rules only allow a standard deduction that is essentially equal to earned college athlete NIL income plus an additional \$350 up to the basic standard deduction amount based on filing status. When the college athlete is a dependent of someone else, then this limited amount of the deduction will be lower compared to the normal standard deduction allowed. Thus, if the athlete has income from additional sources (e.g., interest, dividends), the limited amount would not defray those income items. Given current tax law, the actual dollar amount for the dependency exemption is set at zero dollars. Thus, neither the college athlete nor whoever is claiming them as a dependent will get any amount that would reduce taxable income. It is, however, important to note that the dependency exemption still has a possible bearing on tax liability, as discussed in the next section regarding potential tax credits. Not claiming the dependency exemption for the athlete would allow the athlete to receive the full standard deduction, which could lower the athlete's potential tax burden. A tax return may need to be filed whether or not any income taxes are due because, as a self-employed taxpayer, the self-employment taxes previously discussed in this article may be owed.

### **Other Potential Tax Considerations**

The filing status and dependency of the athlete affects various tax credits in similar ways to how the limits on the standard deduction work. Therefore, taxpayers with children may also be allowed potential earned income and child tax credits based on the athletes' filing status. If applicable, tax credits can be a dollar-for-dollar reduction in calculated tax liability and may also be fully or partially refundable as well. Athletes with children will need to see if IRS Form Schedule EIC (IRS, 2021h) or Publication 972 Child Tax Credit and Credit for Other Dependents (IRS, 2021g) applies. Tax caution should also be taken regarding who claims the athlete as a dependent as this can affect who is able to claim the potential college education credit for paid tuition (i.e., American Opportunity Tax Credit [AOTC]). The AOTC is a federal tax credit allowed for qualified education expenses paid for an eligible student for the first four years of higher education up to \$2,500 of the cost of tuition, fees and course materials paid during the taxable year. Potentially, 40% of the credit (up to \$1,000) may be refundable. The athlete will need to examine IRS Form 8863 Education Credits (IRS, 2021f) to see if it applies.

### **“Pay As You Go” Rules – Form 1040-ES**

Federal tax laws require taxes owed to be paid as college athletes earn the NIL income concurrently. The simultaneous earning and remitting can be accomplished by following the federal income tax rules related to estimated taxes on Form 1040ES. Estimated tax payments are the required method to collect tax on income that is not subject to withholding from an employee. Income from self-employment NIL income, interest, dividends, and rents may require estimated tax payments.

College athletes’ receiving NIL income must follow the “pay-as-you go” concept. In other words, athletes who are Schedule C, self-employed taxpayers may have to pay what are known as quarterly estimated tax payments to the government. As athletes earn income each quarter, these estimated tax payments may be required. If these estimated tax payments are not timely made each quarter when due, then when the tax return is filed for that year and potential taxes are due, the government will calculate a penalty for not following the “pay-as-you go” rules. There are exceptions that may be available based on prior year tax liability. The IRS website has more detailed information on potential required estimated tax payments (IRS, 2021e).

### **Potential Penalties if Federal Tax Rules are Not Followed by College Athletes**

Simply ignoring federal tax requirements related to NIL income can place college athletes in trouble with the IRS. Tax penalties are used to enforce and promote compliance with the system of taxation in the U.S. These penalties can result in potential civil and criminal offenses both monetarily and jail sentences.

There are a host of civil penalties that college athletes who dismiss income tax rules may have to face. These fines are usually monetarily stiff and typically non-negotiable. A few related examples of violations may include failure to file a tax return; failure to pay tax (both income and self-employment); failure to file an accurate return; and failure to make estimated tax payments.

For those college athletes who may make significant amounts of NIL and fail to report correctly and pay taxes, both additional civil and criminal fraud penalties may apply as well.

### **NIL and Need-Based Grants in Aid (GIA)**

Athletes must be aware that NIL earnings could affect college financial aid. Unfortunately, there is not much precise information on how NIL income rules will affect the Free Application for Federal Student Aid (FAFSA) form that students use for university financial aid such as a Pell Grant. Federal need-based aid is awarded using information provided on the FAFSA (Caron, 2021). This determination is not easy and is beyond the scope of this article because there are so many variable factors, such as the institution’s cost of attendance and the student’s expected family contribution (EFC). The athletes earning NIL income should talk to their institution’s financial aid officer to see how NIL earnings may impact need-based financial aid.

### **Conclusion**

This primer introduces college athletes to basic federal income tax rules needed to understand the tax consequences of NIL opportunities. In general, most college athletes (not having to deal with the dependency issued addressed above) earning equal to or less than \$12,550 in NIL income should have no federal income tax due. However, college athletes more than likely must fill out tax returns, and as self-employed taxpayers, may owe self-employment taxes to the government, as previously discussed in this article.

Note that various tax software programs can greatly help college athletes follow the rules for adequately preparing tax returns. However, a basic knowledge of the rules discussed in this article will go a long way in properly preparing college athletes to follow federal income tax laws and in more complex cases, a Certified Public Accountant (CPA) can be a source of valuable tax advice.

## References

- Britt, S. L., Canale, A., Fernatt, F., Stutz, K., & Tibbetts, R. (2015). Financial stress and financial counseling: Helping college students. *Journal of Financial Counseling and Planning*, 26(2), 172–186. <https://doi.org/10.1891/1052-3073.26.2.172>
- Business of College Sports. (2021, August 11). Tracker: Name, Image and Likeness legislation by state. *Business of College Sports*. <https://businessofcollegesports.com/tracker-name-image-and-likeness-legislation-by-state/>
- Caron, E. (2021, July 6). NIL earnings muddle financial aid calculus for college athletes. *Sportico*. <https://www.sportico.com/leagues/college-sports/2021/nil-earnings-muddle-financial-aid-1234633515/>
- Carter, B. (2021, August 16). At least 70% of student-athletes are making a serious but fixable NIL mistake. *Student-Athlete Insights*. <https://studentathleteinsights.com/blog/student-athletes-nil-mistake>
- Heffner, B. (2021, October 21). International student-athletes are missing out big on NIL. *College Gym News*. <https://collegegymnews.com/2021/10/21/international-student-athletes-are-missing-out-big-on-nil/>
- Hosick, M. (2021, June 30). NCAA adopts interim name, image and likeness policy. <https://www.ncaa.com/news/ncaa/article/2021-06-30/ncaa-adopts-interim-name-image-and-likeness-policy>
- Internal Revenue Service. (2021a, August 15). About Form 1040, U.S. individual income tax return. <https://www.irs.gov/forms-pubs/about-form-1040>
- Internal Revenue Service. (2021b, August 15). About Schedule C (Form 1040), profit or loss from business (sole proprietorship). <https://www.irs.gov/forms-pubs/about-schedule-c-form-1040>
- Internal Revenue Service. (2021c, August 15). About Schedule SE (Form 1040), Self-Employment Tax. <https://www.irs.gov/forms-pubs/about-schedule-se-form-1040>
- Internal Revenue Service. (2021d, August 15). Do I need to file a tax return? <https://www.irs.gov/help/ita/do-i-need-to-file-a-tax-return>
- Internal Revenue Service. (2021e, August 15). The basics of estimated taxes for individuals. <https://www.irs.gov/newsroom/the-basics-of-estimated-taxes-for-individuals>
- Internal Revenue Service. (2021f, December 7). About Form 8863, education credits (American Opportunity and Lifetime Learning credits). <https://www.irs.gov/forms-pubs/about-form-8863>
- Internal Revenue Service. (2021g, December 7). About Publication 972, Child Tax Credit and Credit for Other Dependents. <https://www.irs.gov/forms-pubs/about-publication-972>
- Internal Revenue Service. (2021h, December 7). About Schedule EIC (Form 1040 or 1040-SR), Earned Income Credit. <https://www.irs.gov/forms-pubs/about-schedule-eic-form-1040>
- Karpen, K. (2021, July 20). Alabama QB is making “ungodly” amounts from NIL deals. <https://nypost.com/2021/07/20/alabama-qb-is-making-ungodly-amounts-from-nil-deals/>
- Maestas, A., & Belzer, J. (2020, April 5). How much is NIL worth to student athletes? *Athletic Director U*. <https://athleticdirector.com/articles/how-much-is-nil-really-worth-to-student-athletes/>

- Maghamez, J. A. (2015). An all-encompassing primer on student-athlete name, image, and likeness rights and how *O'Bannon v. NCAA* and *Keller v. NCAA* forever changed college athletics. *Liberty University Law Review*, 9, 313–372.
- National Collegiate Athletic Association v. Alston, 141 U.S. 1231 (2020).  
<https://www.oyez.org/cases/2020/20-512>
- Rubin, L., Joseph, M., Lutter, S., Roberts, D., & Jones, J. (2021). Enhancing financial literacy among college athletes. *Journal of Athlete Development and Experience*, 3(2), 74–97.  
<https://doi.org/10.25035/jade.03.02.01>
- Savage, H., Bentley, H., McGovern, J., & Smiley, D. (1929). American college athletics: Bulletin Number Twenty-Three. *The Carnegie Foundation for the Advancement of Teaching*.  
[http://archive.carnegiefoundation.org/publications/pdfs/elibrary/American\\_College\\_Athletics.pdf](http://archive.carnegiefoundation.org/publications/pdfs/elibrary/American_College_Athletics.pdf)
- Towey, H. (2021, July 2). College athletes who could make millions off their name, likeness. *Business Insider*. <https://www.businessinsider.com/ncaa-college-athletes-who-could-make-millions-off-name-likeness-2021-7>